

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, December 8, 2004, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Gerry Krieser, Roger Larson, Dan Marvin, Melinda Pearson, Mary Bills-Strand, Lynn Sunderman and Tommy Taylor. Marvin Krout, Ray Hill, Steve Henrichsen, Mike DeKalb, Ed Zimmer, Brian Will, Duncan Ross, Tom Cajka, Greg Czaplewski, David Cary, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held November 24, 2004. Motion for approval made by Carroll, seconded by Krieser and carried 6-0: Carroll, Krieser, Larson, Marvin, Pearson and Sunderman voting 'yes'; Bills-Strand abstaining; Carlson and Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 04078; SPECIAL PERMIT NO. 04062; COUNTY SPECIAL PERMIT NO. 04059; SPECIAL PERMIT NO. 04061; SPECIAL PERMIT NO. 04064; COMPREHENSIVE PLAN CONFORMANCE NO. 04011; COUNTY COMPREHENSIVE PLAN CONFORMANCE NO. 04012; MISCELLANEOUS NO. 04018I; ANNEXATION NO. 04010; CHANGE OF ZONE NO. 04070; and PRELIMINARY PLAT NO. 04027, WOODLAND VIEW.**

Item No. 1.1a, Change of Zone No. 04078; Item No. 1.1b, Special Permit No. 04062; Item No. 1.2, County Special Permit No. 04059; Item No. 1.3, Special Permit No. 04061; Item No. 1.8a, Annexation No. 04010; Item No. 1.8b, Change of Zone No. 04070; and Item No. 1.8c, Preliminary Plat No. 04027 were removed from the Consent Agenda and scheduled for separate public hearing.

Carlson moved to approve the remaining Consent Agenda, seconded by Carroll and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Sunderman, Bills-Strand and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 04061, Special Permit No. 04064, and Comprehensive Plan Conformance No. 04011, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 04078
FOR A LANDMARK DESIGNATION
and
SPECIAL PERMIT NO. 04062,
FOR NONPROFIT OFFICE USE,
ON PROPERTY LOCATED AT 2541 N STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor Larson and Bills-Strand.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Ex Parte Communications: None.

This application was removed from the Consent Agenda due to a letter in opposition.

Proponents

1. Ed Zimmer of Planning staff submitted letters in support from Becky Martin and Michael James on behalf of the Woods Park Neighborhood Association, and a letter in opposition from Don Pearston.

The subject house was built in 1890. The houses on either side are already designated landmarks and both operate under special permits. The owner and operator of the house east of the subject house, the Rape and Spouse Abuse Crisis Center, purchased this property and wish to extend their operations to this property as well. The Historic Preservation Commission recommended approval, with the request that the site plan come back to the Preservation Commission for final review.

This designation comes on the basis of architectural character of the property, envisioning this row of three 19th century houses. The special permit application requests the same kind of use as the property immediately adjacent to the east. They wish to link the two properties physically and serve them with a common parking lot across the back. There

will be a more detailed site plan submitted for final review by Public Works and the Building & Safety Department.

Support

1. Marcy Metzger, Executive Director of the **Rape/Spouse Abuse Crisis Center (RSACC)**, testified in support and explained the services provided by the crisis center for the past 30 years, being at the 2545 N Street location since 1991. Last year, RSACC answered more than 16,000 client related calls and provided services to more than 2000 victims and their families. In order to respond to the complexity of relationship violence, the agency has been involved in building collaboration in the community to respond to this violence. This proposed additional facility is not to be used to house individuals. RSACC is in collaboration with all three hospitals and with all law enforcement. RSACC also has on-site advocates at the probation office, as well as support groups in the community. RSACC has 16 full-time equivalents and much of the work is done out in the community. They have a staff meeting once a week. They provide walk-in services from 9:00 a.m. to 7:00 p.m., Monday and Wednesday; 9:00 a.m. to 5:00 p.m., Tuesday and Thursday; and open Saturday mornings from 9:00 a.m. to 1:00 p.m. They have worked hard to be responsible neighbors and RSACC is honored to have the opportunity to purchase this property. The proposal was immediately taken to the Woods Park Neighborhood Association board prior to purchasing the property and the Neighborhood Association is in support.

2. Dave Johnson, of Studio Energy Architects, and a board member with RSACC, discussed the site plan. They are proposing a parking lot on the south side of the property with 14 stalls (which is an increase of 10 stalls) to help some of the parking congestion on the street. This also provides a handicap stall and handicap access as opposed to parking on the street. RSACC has communicated with the neighbor to the south who is opposed to the parking lot. In an attempt to alleviate those concerns, the parking lot was located 6' from the property line in order to do some screening. Mr. Pearston is requesting that there be a stockade fence as opposed to the natural screening, and the applicant will not object.

Programmatically, this expansion will provide some private rooms for counseling services. Currently, in the approved facility, the exit is through an office, out a door and out an outside fire stair. By connecting the two residences, there will be a fire exit on the main floor and on the second floor, resulting in three exits off the second floor.

Opposition

1. Don Pearston, 229 S. 26th Street, south of the current facility for RSACC, testified in opposition. The process was begun with the Historic Preservation Commission without anyone in the neighborhood knowing about it. There was no representation from the neighborhood that has been affected by RSACC at the Historic Preservation Commission

meeting. Pearston stated that he appreciates the services rendered by RSACC, but the parking situation is a problem. The cornerstone of his argument is that there needs to be a permanent solution to the parking before there is any expansion of the buildings. There is an 82-plex apartment building, a school, the Lighthouse and several business that do not have parking facilities in this area. The parking bleeds into the neighborhood on 25th and 26th Streets, going down to at least M Street on both sides of the street. The driveways are often times partially blocked. Pearston submitted that the applicant's current drawings are a remedy, not a solution, to the parking problem. They are proposing this large expansion and they have not solved the ongoing parking problem that has been there for years. They are proposing 14 parking stalls, but this does not cover all of the employees, volunteers and guests. The guests will continue to park on the street. The Lighthouse has absolutely no off-street parking. Elliott Elementary has parking, but it overflows very quickly, bleeding out into the neighborhood. Capitol City Villa is an 82-plex which does not have sufficient parking for its residents. 2541 N Street has no parking space and RSACC has four spaces currently. There is a serious parking problem in this neighborhood. Is the city going to continue to allow expansions without a permanent solution for parking?

Pearston went on to suggest that this 14 stall parking lot would run down the entire property line of his home. It is going to be noisy, it may devalue his home, and he did not know he purchased a home that would be next door to an expanding enterprise.

Pearston is concerned about RSACC expanding further in the future. RSACC started in the mid-1970's and has expanded for over 30 years unchecked. He believes that this proposal will result in expansion of services as well as office space. There will be loss of property tax and excessive use of the neighborhood as a parking facility.

Pearston is also opposed to the landmark designation. RSACC has no interest in the preservation of the perpetuation of this house for posterity. The reason they are seeking this landmark designation is to circumvent the R-6 zoning in order to hook the two houses together. R-6 zoning would not allow this kind of expansion. They want a more flexible arrangement with this landmark designation. If the real concern is the preservation of the house, it would be better for a private entity rather than for an expanding nonprofit organization.

Pearston also does not believe that this proposal meets the standards of the landmark designation. He does not believe this house is associated with anyone making a significant contribution to the heritage and culture of the city. Nor was it built by a well-known craftsman or has significant developer. This is a "runt" between two very glamorous buildings. He does not believe this application meets the criteria for landmark designation.

Response by the Applicant

In regard to the criteria, Zimmer pointed out that the language in the ordinance includes the key word "or". It needs to be associated with significant persons or events "or"

representative of a style or time period of architecture or have archeological value. It is Zimmer's opinion that the application meets the second criteria of exemplifying a style of a certain time. This small cottage, while currently impeded somewhat by asbestos siding, does have the architectural characteristics of a certain time period. It is strengthened in its value and preservation is enhanced by its placement between two larger examples. Alone, it is a good example of a Queen Ann cottage.

Pearson asked whether there was any discussion by the Historic Preservation Commission about connecting the cottage to a landmark. Zimmer stated that there was such a discussion. The design seeks to mitigate the impact of that by moving that addition quite a ways back from the facade of the building. There is opportunity to introduce landscaping in front of it. They have done a lot of work in recent years on the building they have owned and maintained to enhance its historic character.

Marvin inquired as to how this designation protects the property. Zimmer stated that the landmark puts in place that agreement between the owner and the city governing future changes to the building. It is a neat little house today that has not been maintained as a historic property. The landmark special permit seeks to offer opportunity for owners to put in a use that zoning would not ordinarily allow in order that they might better maintain and enhance the landmark. It is a specific incentive program that requires the judgment of the Planning Commission and the City Council as far as meeting the balance between preservation and the impact on the neighborhood.

Taylor inquired about the hours of operation and how many staff might be there at one time. Metzger stated that at any one time on most any typical day the staff are out in the community as opposed to being at this office facility. There are 4-6 employees at the office site on a typical day. The walk-in traffic is very low key. RSACC has been a very good neighbor and has been active in the Woods Park Neighborhood Association. RSACC talked with the Neighborhood Association before even purchasing the house. Mr. Pearston has never spoken to RSACC about parking issues. There have not been substantial complaints about the parking. RSACC does not intend to continue to expand at this facility. It is much to the advantage of the victims for the RSACC staff to be out in the community to meet the needs.

Taylor inquired whether clientele will be able to park in the parking lot behind the building. Metzger indicated that to be the intent because many of the clients have safety concerns.

Taylor inquired whether the applicant foresees increased off-street parking or decreased off-street parking with this application. Metzger believes it will result in increased off-street parking by 10 stalls.

Carroll inquired about the landscaping and lighting for the parking lot. Zimmer stated that there are no lights currently proposed. The Historic Preservation Commission has asked to see more detailed plans and there would be interest in both landscaping and lighting

issues. Dave Johnson added that Building & Safety would have to approve any parking lot lighting that might be proposed.

Pearson believes the main concern here is parking. If this were office occupancy and the rate were 1/100 sq. ft., what would be the required number of off-street parking if this were office zoning? Johnson responded, stating that they will end up with 2900 sq. ft. per floor. If this were office zoning, the requirement would be 5/1000 sq. ft. It would be 1/100 sq. ft. if it were a restaurant. This would equate to about 15 stalls. Zimmer suggested that 1/300 sq. ft. would be more typical in many of the districts, which is 10-15 stalls.

CHANGE OF ZONE NO. 04078**ACTION BY PLANNING COMMISSION:**

December 8, 2004

Pearson moved approval, seconded by Marvin and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04062**ACTION BY PLANNING COMMISSION:**

December 8, 2004

Pearson moved to approve the staff recommendation of conditional approval, seconded by Marvin and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04061**FOR AN EARLY CHILDHOOD CARE FACILITY
ON PROPERTY LOCATED AT
2605 FAIRFIELD STREET.****PUBLIC HEARING BEFORE PLANNING COMMISSION:**

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda due to a letter received in opposition.

Greg Czaplewski of Planning staff submitted two items of additional information, including a letter from Carol Brown on behalf of Landons Neighborhood Association in opposition, and a copy of page 3 of the staff which was inadvertently omitted.

Proponents

1. Jerry Nelson appeared on behalf of the owner of the property and clarified that this day care is for the employees of a business. The letter in opposition assumes that this day care would be in competition with other day cares in the area. This day care is a benefit only for Vital Services employees. It is not child care for people outside of the Vital Services employees. It will be 440 sq. ft. for the child care facility.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

December 8, 2004

Carlson moved to approve the staff recommendation of conditional approval, seconded by Taylor.

Bills-Strands applauds any business that brings day care for their workers.

Motion for conditional approval carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is "final action", unless appealed to the City Council.

ANNEXATION NO. 04010,
CHANGE OF ZONE NO. 04070
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL,
and
PRELIMINARY PLAT NO. 04027, WOODLAND VIEW,
ON PROPERTY GENERALLY LOCATED
AT S.W. 40TH STREET AND WEST 'A' STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone; and conditional approval of the preliminary plat.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of Mark Hunzeker.

Proponents

1. Mark Hunzeker appeared on behalf of the applicant. Hunzeker requested to amend the legal description on all three applications, reducing the scope of the area being

annexed and reducing the size of the land area within the change of zone and preliminary plat.

Hunzeker also requested that Condition #1.1.4 on the preliminary plat be deleted. This condition requires the extension of a street to the limits of the preliminary plat. Inadvertently, the applicant had included a street which was not intended to be built in this first phase, but was intended to be built when and if the adjacent property was subdivided. At the time the additional area is subdivided they would be required to extend that street to meet it. Hunzeker has visited with the staff and he does not believe they object.

There was no testimony in opposition.

Tom Cajka of Planning staff agreed with the proposed amendments. With the revised legal description, Condition #1.1.4 is no longer needed as the application meets the requirements of the subdivision ordinance of extending streets to the boundary of the plat.

ANNEXATION NO. 04010

ACTION BY PLANNING COMMISSION:

December 8, 2004

Carlson made a motion to find the annexation to be in conformance with the Comprehensive Plan, as amended by the applicant, subject to an annexation agreement, seconded by Taylor and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04070

ACTION BY PLANNING COMMISSION:

December 8, 2004

Carlson moved approval of the boundaries as amended by the applicant, seconded by Taylor and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 04027

WOODLAND VIEW

ACTION BY PLANNING COMMISSION:

December 8, 2004

Carlson moved to approve the staff recommendation of conditional approval, with the amended legal description and the deletion of Condition #1.1.4 as requested by the applicant, seconded by Krieser and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is "final action" unless appealed to the City Council.

COUNTY SPECIAL PERMIT NO. 04059

FOR COMMERCIAL STORAGE OR SALE OF

AGRICULTURAL CHEMICALS

ON PROPERTY LOCATED AT N. 56TH STREET

AND MILL ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda.

Proponents

1. Trent Sidders testified on behalf of the owner and applicant, Dave Benes. This special permit is for commercial sale or storage of agricultural chemicals, located on Mill Road just off of Hwy 77. He believes there have been questions about the type of chemicals and size of the operation proposed. There is no plan for any bulk storage of chemicals. All of the chemicals would be pre-packaged from the manufacturer ready to go to the farmer for use in their own fields, such as common agricultural chemicals to be used in the spring by farmers. There will be no bulk storage containers. The property is the former private airstrip. There are two buildings associated with that former use that will be utilized as part of this plan. The applicant will also build an office building. The general hours of operation would be 8:00 a.m. to 4:00 p.m. during the week and maybe 8:00 a.m. to 12:00 Noon on Saturdays during the spring season of March through May for the seasonal application of agricultural chemicals.

Carlson inquired whether the applicant lives on the property. Sidders stated that he does not. There is a residence on the property which is currently vacant. There is some thought of having a person who might be staffing the operation live in that home. The airstrip is not active. It is a “former” airstrip location.

Opposition

1. Blayne Glissman, 5225 Mill Road, the property directly south of the proposal, testified in opposition. He does not believe this use fits the area, the Comprehensive Plan or what has been done in the area. He has lived on his property since August of 1979. He is very familiar with the airstrip. He helped the family clean up the house and was active in working under a county grant to remove hazardous chemicals, at a cost of \$68,000. There is a concern as far as leachate into the soil of the area which has not been addressed. He raises, sheep, goats and hogs, marketing to 4-H youth across the country. He is also developing a tree farm to market and move trees and shrubbery.

In the proposed 5.5 acres, there is not a residence, just the two hangar buildings. The residence would be outside of the proposed special permit area. The well for the property is by the house—not on the 5.5 acres. Another well would have to be drilled as well as septic system for the proposed office and work area.

Glissman submitted an aerial photo from 2002. Within ½ mile of this proposed business, there are nine active residences. There are 25 residences in the section to the south. His experience shows that ground water flows north to the southeast in this part of the county.

Glissman also suggested that the road and entrance are not conducive to truck traffic. This special use does not fit the Comprehensive Plan and does not fit what the Planning Commission has approved in the area in recent actions, i.e. residential acreage subdivisions. According to the Department of Agriculture, Mr. Benes’ license states that he will market general use and restricted use pesticides, sell and distribute bulk chemicals and bulk pesticides. The NDEQ definition of bulk chemicals is anything over a 55 gallon container. The totes today used by agriculture are larger than 55 gallons.

Glissman urged that these are some serious hazardous chemicals and he does not believe they fit the area, along with the traffic and dust challenges.

2. Wes Daberkow, 13201 N. 56th Street, submitted a summary his farm plan. He operates a small farm, the north boundary of which is 1,000 feet south of the proposed site. He appreciates the value of doing business with agricultural providers. He has personally completed several rounds of applicator training, yet in the best planned and orchestrated management, things can go wrong. A Cuming County neighbor was lost because of unknown prolonged chemical exposure. Daberkow believes this is a proximity issue. The procedures that don’t go as planned or as they should does place in jeopardy the health and well-being of plants, animals and sometimes humans.

Daberkow has 11 tillable acres. He has initiated a transition activity with a whole farm plan toward higher value and alternative crops. He is currently preparing to install some mix of crops including grapes, nut trees, fruit trees and horticulture crops. His farming activity has been deemed significant as a tour site and is evolving toward a UNL demonstration site. His farm is featured on the Annual Urban VIP Tour/UNL Southeast Research and Extension Center. He believes this proposal can jeopardize his farm program. Some of the alternative crops are sensitive to even slight risk of airborne chemicals. This close proximity increases risk of crop loss.

Bills-Strand inquired whether the land across the street to the north is farmed and using chemicals. Daberkow stated that the irrigated quarter section to the left would definitely be chemical intensive. He does not know about the 80 acres owned by Mr. Benes.

Daberkow believes there are at least 36 families residing within one mile of the proposed site at this time and that number will increase because of the Giebenrath development.

Bills-Strand noted that the subject property was formerly used as an airstrip for aerial spraying, and that they could continue that use currently. If that is a current use, would this be a better use? Daberkow responded, stating that anytime that agricultural chemicals are used where they exceed 55 gallons, there is some need to transfer from one place to another something that is more hazardous in the sense of its integrity. On the other hand, there are regulations in place to prevent that, but best laid plans do not always work out. He thinks it is a proximity issue to the 36 and growing number of homes.

3. Garth Glissman, 5225 Mill Road, testified in opposition. He believes that living in the area for 22 years qualifies him as an expert on the area in question. It is not suited for any type of commercial activity and the proposed change would cause unnecessary harm to local residents. Zoning regulations are to promote general welfare, secure safety, facilitate adequate transportation and encourage the most appropriate use of land. The changes proposed are in violation of these zoning regulations. He sincerely questions the applicant's motives. He does not believe his motives are for the well-being of the area or the local residents. It compromises the general welfare of the local residents. The applicant has owned the land for a short period and does not live on or near the area in question. The changes would mark an intrusion on the calmness of rural life. A 1600 sq. ft. commercial building in addition to the existing buildings and the parking lot would not mesh well with the area. The nearest business is over three miles away.

In addition, navigating Mill Road, which is gravel, is difficult, especially during the winter months. Adding more traffic, especially trucks, will make driving on this gravel road a disaster for local residents. Adding a commercial business with minimal lighting or law enforcement would invite criminal activity to this area. This compromises the general welfare and safety of local residents as well as their property.

He is also concerned about the environmental hazards.

Glissman also suggested that the house that is currently on the property is simply not livable. The crop dusting had minimal commercial traffic and activity. He welcomes growth in the Lincoln/Lancaster area but this is not the next logical place for commercial growth.

4. John Schauer, 5020 Waverly Road, testified in opposition. His property is one mile south of the proposal. The proposed facility will handle hazardous farm chemicals. When you use these chemicals you have to use personal protection equipment. It is something that you do not want people exposed to. He is also concerned about use of the airstrip in conjunction with this facility. What happens if we have an individual/terrorist that would see this as an opportunity to use this airstrip? It is only a few miles from Downtown Lincoln. The Nebraska Emergency Management Agency should review this proposal before it is approved. These smaller landing strips are unsecured.

Staff Questions

Carroll inquired whether the applicant would be required to state what type of chemicals are being stored. Is there a condition that they cannot store bulk chemicals? Mike DeKalb of Planning staff indicated that the specific special permit language does not have any type of criteria so it is not a requirement but could be made a condition of approval. There are conditions that require that local, state and federal permits be sought and licenses granted, thus DeKalb believes the issues of types, quantities and proper storage would be covered. But, if his state license says he can sell and store any type of farm chemical, Carroll believes he passes the state and local regulations condition of approval. DeKalb concurred.

Bills-Strand inquired about continued use of the airstrip. DeKalb explained that airstrips are permitted by special permit and anything deemed to have been there at the time is deemed to have received a special permit, thus he believes they could continue to use the airstrip.

Bills-Strand inquired about security for the airstrip. DeKalb did not know whether there are any security requirements, but there is a condition of approval that the permitted area is to be gated and locked. The County Sheriff was contacted for comment, but they have not yet responded.

Response by the Applicant

With regard to bulk chemicals, Sidders stated that Mr. Benes will not re-package any chemicals. He will not put in any big storage tanks for the packaging. He does not have repackaging agreements and he does not intend to get any agreements. He will unload off the truck and sell to the farmers. There are no plans to use the airstrip itself or anything associated with it in this operation.

With regard to the residence, Benes stated that it is not part of this application. It is not included in this special permit.

In addition, Benes advised that the Department of Agriculture has certain guidelines that must be met and he will abide by those requirements.

ACTION BY PLANNING COMMISSION:

December 8, 2004

Larson moved to deny, seconded by Krieser.

Marvin has traveled this area and he pointed out that 56th Street will eventually be urbanized in one way or another. He also noted that once you give the permit to the property, it stays with the property.

Motion to deny carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the Lancaster County Board.

COUNTY CHANGE OF ZONE NO. 04080
FROM AG AGRICULTURAL TO I INDUSTRIAL
ON PROPERTY GENERALLY LOCATED
AT THE NE CORNER OF HWY 2 AND HWY 43 (BENNET INTERCHANGE)
PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand.

Staff recommendation: Approval of the northern 5-6 acres.

Ex Parte Communications: None.

Proponents

1. Don Voges, representative of **Capital Concrete**, testified that Capital Concrete has had an ongoing business at 431 A Street since 1968. They are requesting this change from AG to I Industrial for the reason that the existing cloverleaf provides safe and effective exit and entrance to the highway for the purposes of supplying concrete to southeast Lincoln and that part of the county. The applicant has met with the Planning Commission and City Council of Bennet and received unanimous approval.

Voges submitted a brochure labeled "Enviro-Port". This facility will be a total reclamation system for the return of concrete and washed off trucks. When a truck comes back with left-over concrete, water is added and you have to dispose of it. The product will be put into a storage tank and go through a reclaiming system. The aggregates and rock will be

taken out and reused and the water will be used back in the production of concrete. None of it will ever touch the ground. They will utilize a stormwater retention pond and the water will be retained and used back in the production of concrete.

Voges submitted renderings of the site. They will continue the concrete pavement to the entire extent of their operation. Bennet raised the issue of speed on that road with people coming from the south at 60 mph and then hitting a gravel road in an S curve. Voges believes that paving to the limits of their operation will help the traffic and Capital Concrete has already made request to the State to change the speed limit to 45 mph.

The applicant has also received approval of the Lancaster County Health Department. The applicant has submitted all of the dust control applications, which have been approved for this site. Voges also submitted a rendering showing how the plant facility will look viewed from the 162nd Street side. There will be a concrete bunker to enclose the aggregates used in the production of the concrete. The aggregates will be conveyed through a conveyor system and will go through a covered conveyor system and loaded directly into the trucks. All dust generated is collected in the collection system and reused back in the process.

2. Rocky Weber, attorney, discussed technical issues on behalf of the applicant. Paragraph 9 of the staff report notes that the applicant would like to have up to eight acres on this tract approved. Not knowing the current siting of the facility, Weber believes that eight acres rather than five to six acres would be more appropriate.

With regard to paragraph 10 of the staff report, subparagraph C will limit the hours of operation from 7:00 a.m. to 7:00 p.m. Weber took the position that there are no zoning standards, rules or regulations in the county supporting such a limitation and there are no limitations on any ready-mix plants here in Lincoln that would be comparable. This would put the plant into a competitive disadvantage and Weber requested that condition 10.C be deleted. Conditions D and E require visual and noise screening. Weber noted that there is a residence a ways to the north and Capital Concrete is more than happy to screen its facilities from that residence and provide the screening to the owner so that the property owner has the control. However, with regard to screening the adjacent farm land or Highway 2, Weber believes that it is not necessary for the additional screening requirements. The applicant would prefer to focus those dollars on the north side.

There are about 20 acres separating this site from the highway. It is about 1500 ft. from the highway itself. The distance from the residence to the north would be about two city blocks.

Opposition

1. Marsha McMahon, who lives just north of the proposed plant at 9500 S. 162nd Street, testified in opposition. There have been two deaths on the road because of the narrow, sloping, gravel condition. It is very hard to see trucks coming out of where she envisions

the concrete plant driveway being located. It is very low land and the hill is very steep. If we get any amount of rain at all, it comes down and fills the ditches and runs over the road in at least three places. This causes a lot of ruts in the roads from the traffic they get now. She can only imagine what it will look like when they put concrete trucks on it. Another problem is the drainage. When the water runs down and over the road and out of the ditches, she believes it will create a pollution problem for the pond and stream on her property and the other ponds and streams in the area. It is also an invasion of her privacy. She believes it will devalue her home. She did not move to the country to live next to a concrete plant.

McMahon has lived in her residence for 18 years and takes great pride in it and would not want a concrete plant in her back yard.

2. Jerry Fletcher, who farms to the west up 162nd about 1/8th mile, testified in opposition. Even if this permit is not approved, there still need to be guardrails and concrete on the road. It is a very dangerous condition that the state needs to take care of. Also, he is concerned with the traffic going north past his place. There will be a lot of ruts and damage to the property. Is the concrete plant going to take care of the road? He does not believe this is a good location for industrial. It is more appropriate for commercial.

3. Brian Gorman, who lives south of Hwy 2 at 10600 S. 162nd Street, testified in opposition. He did not realize that Bennet was designating this as industrial land. It seems to be in conflict with the farming houses and acreages that are going up in this area. He is also concerned about the traffic problems at that intersection. Even if paved, the curve and slope lend to problems. He believes the paving will encourage more speed.

Pearson noted that there are no conflicting farm uses, but there is one house that could be impacted. In the staff report, DeKalb is speaking specifically to the house on the northwest and adjacent. Pearson asked whether the road is steeper than a normal road. DeKalb explained that there is a full interchange overpass height across Highway 2 and it drops from there and pretty much hits the at-grade levels on the reverse curve by their northern entrance. It's a ramp all the way down and concrete stops half-way down that ramp.

Carlson inquired about the applicant's request to delete the hours of operation. DeKalb acknowledged that there have been hours of operation imposed on fill permits and excavation permits. It is a tool that has been used when there is a concern for the neighbors. The existing asphalt plants in the city industrial zoning do not have those restrictions.

Bills-Strand wondered whether the restriction on hours might put a limit on production. DeKalb indicated that the staff has no objection to adjusting the hours of operation. The city's noise ordinance might solve most of the issue.

Carroll noted that the Bennet Comprehensive Plan states that the industrial uses on the north side should be limited. DeKalb concurred that the Bennet Comprehensive Plan shows this as industrial/commercial and the text says it should be developed as industrial/commercial. DeKalb did not know what "limited" might mean. The reason to hold this permit to a limited number of acres is because the industrial zoning would allow many other uses. It is inappropriate to pre-zone the additional area at this time. DeKalb stated that eight acres is the upper range that staff would accept.

It was pointed out that there are no lighting requirements.

The county road that goes to the north is maintained by Lancaster County. The State maintains the interchange.

Taylor wondered whether there is a problem with the amount of traffic and weight of the vehicles. DeKalb believes there would be substantial impact on the county road. The County Engineer requests that the applicant pave to their northerly entrance and that is a condition of approval. That should be sufficient. We would expect all of the traffic to follow the pavement. DeKalb sees very little reason for any of the traffic from this operation to go to the north.

DeKalb clarified that the staff is recommending approval of a lesser area because it is shown in the Bennet Comprehensive Plan as industrial/commercial.

Response by the Applicant

Voges believes that the reason there have been accidents on the curve is because of the change from concrete to gravel. That whole road lies within the jurisdiction of the State of Nebraska. Therefore, the applicant will have to meet the State's criteria as far as thickness, width and barriers.

With regard to the drainage, Voges stated that any water coming onto that paved area will have to be retained on the applicant's property. According to the EPA requirements of no discharge, they will have to put curbs along the entire edge of the property that will stop any water from leaving the property. Voges reiterated that the applicant will pave to the north entrance of the plant site property.

ACTION BY PLANNING COMMISSION:

December 8, 2004

Larson moved approval of the change of zone on the northern eight acres, with amendment deleting Condition #10.C, seconded by Bills-Strand.

Pearson stated that she will vote against because it is not in conformance with the Lincoln-Lancaster County Comprehensive Plan. She thinks the property is better served as AG or commercial.

Taylor would like to see some guarantee to enforce an agreement with the neighbors in satisfying some of their concerns regarding the road. DeKalb explained that the conditions imposed by the County Board will need to include an agreement between the county and the applicant. If they work something out in the meantime, they can place it in the agreement.

Larson stated that he is voting in favor because he believes it is out far enough to be a good location; it is far enough away from the interstate so that the beautification of our entrance to our city can be preserved. With the new technology that they are planning to use, he does not believe it will be objectionable.

Carlson suggested that it might behoove the county at some point to adopt a special permit process. It seems we are facilitating a process by which people will move out of the city jurisdiction in order to not be in the special permit process.

Bills-Strand stated that she will vote in support because it complies with the Bennet Comprehensive Plan. With the growth in Bennet, Firth and Hickman, it is nice to have some employment near by their homes.

Motion for approval of the change from AG to I for the northern eight acres, with amendment deleting Condition #10.C, carried 6-3: Carlson, Carroll, Sunderman, Taylor, Larson and Bills-Strand voting 'yes'; Krieser, Pearson and Marvin voting 'no'. This is a recommendation to the Lancaster County Board.

CHANGE OF ZONE NO. 04076
FOR A LANDMARK DESIGNATION
and
SPECIAL PERMIT NO. 04063
FOR OFFICE AND RESIDENTIAL USE,
ON PROPERTY LOCATED AT
1941 K STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Ex Parte Communications: None.

Proponents

1. Ed Zimmer of Planning staff presented the application. This is a combination house (built in about 1900) and grocery store (added in 1906). The Historic Preservation Commission has recommended approval of the landmark application under the criteria of signifying important events. This is a category of broad events in the history of Lincoln. A number of small neighborhood grocery stores have been studied. There are over 100 listed in the city directories in the early 1900's. About 15 still stand in the various neighborhoods. This is the best example of the particular class of house with added store. There is one on Randolph and one on North 33rd. The Historic Preservation Commission endorsed this as a good demonstration of this particular kind of small neighborhood grocery store. This stands in the area covered by the Antelope Valley Redevelopment Plan where staff is recommending long term mix use of residence and office, thus the special permit for the office in the grocery store portion and a residence on the house. This building will be refurbished to a higher quality appearance. It was known as Lincoln Home Bakery.

2. Fernando Pages testified in support. He purchased this property and the one next door originally with intention to demolish both and build apartment buildings. He presented the plans and has approval for two buildings, but he was looking for a location to develop his office. He decided that with the right architect and right design, this could be a good location for his office and the house is a really nice structure. Pages stated that he primarily does affordable housing and building in the Antelope Valley area.

2. Jerry Berggren, member of the Historic Preservation Commission and the architect for this project, advised that he abstained from the vote at the Historic Preservation Commission meeting. The site plan attempts to preserve the building as carefully as possible, yet there are not a lot of historic photographs available. The asbestos shingles will be removed from the store front and it will be returned to the original siding appearance. They have done some demolition on the interior to confirm the structural integrity. They will be working with the historic colors of the area. There will be a simple placard sign across the top, illuminated with traditional lighting of the period. It will have a canvas awning. This happens to be immediately adjacent to the bus stop that occurs on K Street, so they will be providing some benches and some community expression.

Pages clarified that the house will remain as a residential rental property and he will use the store front as his office. The house will be totally rehabbed. The historical requirements are primarily on the exterior.

Pearson inquired whether there is off-street parking. Berggren confirmed that there is parking off-street. There will be a structure to the rear for some secure parking, with two parking stalls in the garage and two in the rear of the building. There is parking available to the public on the street, but the amount of traffic coming to Pages' offices is very limited and will park in the rear of the building.

There was no testimony in opposition.

Larson confirmed that this will not interfere with the Antelope Valley plan of making 19th the main corridor north and south. Zimmer stated that this is about a block east of that. We would like to see this area in general enhanced. We anticipate the Antelope Valley plan may rezone this area and that rezoning would accommodate this use. The plan in general also encourages preservation of the buildings in the area.

CHANGE OF ZONE NO. 04076

ACTION BY PLANNING COMMISSION:

December 8, 2004

Marvin moved approval, seconded by Larson and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04063

ACTION BY PLANNING COMMISSION:

December 8, 2004

Marvin moved to approve the staff recommendation of conditional approval, seconded by Carroll and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04065

FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES

FOR CONSUMPTION ON THE PREMISES

AT 4680 LEIGHTON AVENUE.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. Craig Wittstruck appeared on behalf of the applicant. He believes that a number of components have not been made known to the staff. He requested a continuance until the next meeting.

Taylor moved to defer, with continued public hearing and action on January 5, 2005, seconded by Krieser and carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'.

There was no other public testimony.

COMPREHENSIVE PLAN CONFORMANCE NO. 04010,
“THE 48TH & O STREET REDEVELOPMENT PLAN”.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: Bills-Strand reported a discussion with Dan Marvin about the street issue. Marvin disclosed a discussion with Bills-Strand, providing her with background information since she was absent for the briefing.

Proponents

1. Wynn Hjermstad of the **Urban Development Department** presented the proposed redevelopment plan, reminding the Commission that a few months ago a blight and substandard determination for this redevelopment area was found to be in conformance with the Comprehensive Plan and the City Council declared the area blighted and substandard in August. This redevelopment plan is the next step. Hjermstad showed a map of the boundary of the plan. The redevelopment plan identifies issues and projects in very general terms. There are no specific projects identified. The redevelopment plan provides an overview of existing conditions and the major challenges the private sector would have in developing the area, including the drainage ditch and 50th Street. The redevelopment plan provides some guiding development principles, most of them being taken directly from the Comprehensive Plan for commerce centers. This area fits best with the commerce center definition. In addition, principles have been included to address concerns of the Witherbee Neighborhood Association. Those principles will be used in evaluating projects.

Hjermstad advised that this proposed redevelopment plan meets the statutory requirements to allow going to the next step. The proposed plan does identify some infrastructure projects, including sidewalk repair, streetscape, drainage issues, and some general stormwater and storm sewer conditions. Two commercial projects have been identified at this time (not in detail nor with a developer), which are the “north of O” project area and the “south of O” project area. By having two big project areas it gives the city more flexibility in the use of tax increment financing (TIF) funds.

In terms of process, Hjermstad advised that the Urban Development Department has met with almost all of the property owners, one-on-one. They also met with the Witherbee Neighborhood Association several times and with some stakeholders that are not right in the area, e.g. Doane College and Hawthorne Elementary School/LPS.

Hjermstad stated that the next step is public hearing and approval by the City Council on January 10, 2005. If the City Council adopts the plan, the next step is to issue the RFP's and try to get the redevelopment going. The entire redevelopment plan document is on the Urban Development Web site.

Marvin inquired about the land acquisition costs. Hjermstad stated that Urban Development has not yet done appraisals, which cannot be done until the plan is approved by the City Council. She has a rough idea of the assessed value, but that might not be end up being the cost. The northern area is in the neighborhood of 15 million dollars.

Marvin inquired about the time frame for the improvements to "O" Street. Hjermstad clarified that the "O" Street project is separate from this plan. However, she believes that the city is looking at 18 months to begin construction of the widening of O Street from 52nd to 42nd Street.

Marvin noted that the road rebuild of "O" Street was originally going to be funded by the bond issue, which failed. Since "O" Street will be widened without the bond money, is there going to be an impact on other projects in the CIP? Hjermstad did not know. Marvin does not believe this plan can be done without the widening of "O" Street. Hjermstad's response was that the city does not want to redevelop an area and then come in and do construction in front of it. She assured that Urban Development is working with Public Works to coordinate, but she did not know the details. She offered to get that answer.

Marvin asked Hjermstad to speak to the issue of the TIF funds in terms of what she anticipates will be received in dollars and the use. Hjermstad stated that it depends on the redevelopment that occurs as far as the amount. If it were to be a ten million dollar project, we would end up with approximately 1.3 million dollars in TIF funds, but that is just very preliminary until we know what the actual project is going to be. Urban Development has identified mixed use for the projects, but there is potential for housing on the second floor on the south side. Anything in the public right-of-way can qualify for TIF. TIF funds cannot be used on private property, but they can be used for sidewalks, alleys, streets, drainage issues, utilities, stormwater, sanitary sewer, and water mains, as well as land acquisition, assembly and relocation.

2. Russell Miller, 341 S. 52nd Street, testified on behalf of the **Witherbee Neighborhood Association**, which covers the area from 33rd Street to Cotner Boulevard, from "O" Street to Randolph Street. The association is basically in favor of the plan. Witherbee's only concern is with the area south of "O" Street. There were discussions and suggestions made in August but nothing has happened. This project needs to move forward.

3. Dick Hartsock, landowner in the area, with experience in eminent domain and the Comprehensive, testified in support. This is a wonderful opportunity to do something. The area is a mess and the individual landowners can't get together and can't put it together. The Nebraska Development Act is a statutory procedure and it's a wonderful opportunity

to take this old blighted area, redevelop it, put it together and take care of problems. He is in favor because he has a 180x600 strip of land and he cannot develop it alone. But if it is put together with everything else, it will be a wonderful opportunity to change the topography and develop a real nice shopping center right in the middle of town. Individually, the property owners cannot do it. He tried for 30 years to get 50th Street through. This area is blighted and it is not going to change until someone puts it all together.

There was no testimony in opposition.

Staff questions

Bills-Strand is concerned about the impact of the "O" Street widening on other current projects in the CIP. She suggested that this seems like a project where maybe a bond issue on its own to fund the street widening might be a good idea. She is concerned that street improvements badly needed in south Lincoln between 40th and 56th on Pine Lake Road may be pushed back to accomplish this when we have other businesses in south Lincoln needing that street widening. Are we delaying projects already on the books to take care of 48th & "O" Street? Marvin Krout, Director of Planning, stated that there is some money available in the current CIP for land acquisition; however, there is no money in the current CIP for construction. Public Works is in the process of developing the new CIP for the year starting 2006, and they are looking at how to make this happen and what the impacts would be. It probably would require an amendment to the 2005 CIP to allow for additional land acquisition, and we don't know yet where that money would come from. It would also require amending the CIP for the year 2006-07 in order to create a place for the construction. Unless additional funds are made available, yes, the 48th & "O" project would have an impact on existing projects currently shown as being funded for construction in 2006-07. That is an issue that Public Works is analyzing.

Bills-Strand recalled that the Lincoln City Libraries had a bond issue and they returned a large portion of the money back to the City. What happens to that money? Krout believes that to be a legal issue, but he believes there was an interpretation that they could use some money for Downtown. There are limitations based on what the voters approved.

Marvin inquired as to how the city acquires these properties. Krout believes that there have been a couple of properties that have been acquired with road funds, but there is not enough right-of-way acquisition money to buy all of that land. Until Urban Development has a project so they have a stream of revenues, they don't have the money.

Response by the Applicant

Hjermstad stated that the TIF analysis numbers previously given in her testimony were wrong. Once there is a project, Urban Development does an estimate of what the final value would be and then they do a bond for it and use the TIF funds to retire the bond. The

city acquires the land, negotiates with the developer, sells the land to the developer at a fair value and puts the money back in the project.

Rick Peo of the City Law Department explained that a bond project has specific dollars being bonded for specific uses. You can only spend the money on the use provided. Depending on how broad your bond issue is (if it was for libraries), you would not be able to use it for streets. It is usually fairly limited. The money goes toward paying back the bond.

ACTION BY PLANNING COMMISSION:

December 8, 2004

Larson moved a finding of conformance with the Comprehensive Plan, seconded by Carlson.

Larson believes that this is a project that needs to move forward. This just allows it to take another step in the process.

Bills-Strand agrees that this area needs attention, but she would like to explore other alternatives than taking money away from other projects. She is hopeful that other financing will be explored.

Motion carried 9-0: Carlson, Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN AMENDMENT NO. 04021,
TO ADOPT THE PROPOSED "AIRPORT WEST SUBAREA PLAN".
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Marvin, Taylor, Larson and Bills-Strand; Pearson absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: Marvin disclosed a conversation with one of the members of the Airport Board, and he also gave background information to Bills-Strand as she was unable to attend the briefing for the Planning Commission.

Proponents

1. Duncan Ross of Planning staff presented the proposal and submitted additional information for the record. This is a proposed subarea plan for the Airport West area. It also encompasses a number of amendments to various sections of the Comprehensive Plan, including land use, business and commerce, community facilities, parks and opens space, and transportation. Those specific amendments are outlined in the staff report.

The public process on this subarea plan was started in August, 2004, with a neighborhood workshop in the area attended by over 80 people; at that time, the staff proposed three alternatives. From those alternatives, the staff was able to move forward to a preferred plan with the input from residents and extensive input from different city and county agencies and a number of public entities. On November 16th, there was a public open house and a single preferred plan was assembled, called Alternative D, with one minor option to realign N.W. 48th Street, shifting it east to N.W. 46th Street. After testing that concept and providing additional comment, the city is moving forward with Alternative D today, the preferred subarea plan, which does include moving N.W. 48th between W. Adams and W. Cuming approximately 2 blocks east; however, that alignment does not preclude the existing alignment from being the ultimate one that is improved after further engineering and design. It is merely the intent to identify the 46th Street alignment as the preferred alternative.

Ross stated that there is general agreement on the relocation of N.W. 48th Street with the Arnold Heights Neighborhood Association; however, there may be comment today regarding location of a new arterial street in this area along the N.W. 40th and 38th Street alignment.

Ross submitted a letter in support from the Lincoln Economic Development Council and a letter from the Lincoln MPO-Technical Committee in support, with recommendation for one amendment, to move the industrial collector generally along the West Vine Street alignment to facilitate more direct access from the new 40th and 38th Street corridor back west to the interstate (the current plan shows more of a backwards jog and the Technical Committee thought the intent should be to provide the most direct routing back to the interstate interchange). Ross also submitted a letter from the Arnold Heights Neighborhood Association in general support with a number of comments: They are supportive of an additional north/south roadway which has been identified as the 40th and 38th Street corridor; they believe that there are advantages for the realignment of N.W. 48th Street; they have some concerns about realigning N.W. 48th to 46th and the impacts it may have on the recreation center and the swimming pool; they also raise some issues regarding the area south of West Adams Street—arterial traffic will continue to go through that corridor and they would encourage some type of screening for noise abatement. Ross noted that there is already in excess of 100 feet of right-of-way for that road.

Ross stated that the staff believes there are two good ideas identified by Arnold Heights and the staff is proposing two amendments regarding mitigation issues for truck traffic on N.W. 56th and an additional exit out of Arnold Heights:

On page 20 of the proposed subarea plan, add the following:

- Ensure that commercial and industrial centers are designed to guide commercial truck and vehicle traffic to the nearest arterial roadways.

On page 25 of the proposed subarea plan, add the following:

- At the time of platting land west of Arnold Heights, generally northwest of N.W. 56th Street and West Adams Street, ensure that a connection south to West Adams Street is provided with the subdivision and Arnold Heights.

Ross also submitted a letter from Barbara Erickson, 3900 W. Holdrege Street, in opposition to the future N.W. 40th and 38th Street major arterial being located generally along her west property line.

Support

1. Tom Huston appeared on behalf of **The Housing Authority of the City of Lincoln**, a significant property owner in the Arnold Heights area, owning approximately 500 dwelling units and additional facilities. The Lincoln Housing Authority is supportive of the proposed realignment of N.W. 48th Street changing the arterial street to 46th Street, with the only caveat being contingent upon continued and direct access to N.W. 48th Street. The facilities owned and operated by the Lincoln Housing Authority include the Lincoln Army Airfield Chapel (which is leased to a congregation); the Carol M. Yoakum Family Resource Center (with a wide variety of uses); and the Lincoln Housing Authority maintenance facility and leasing office located adjacent to the Family Resource Center. The Lincoln Housing Authority is the owner of 1300 dwelling units within the City of Lincoln, which are also serviced out of this maintenance facility. Therefore, direct access to both north and south Lincoln is needed.

Huston advised that the Housing Authority did meet with the staff and they were supportive of maintaining the direct access to N.W. 48th Street. The realignment of N.W. 48th makes a lot of sense for the neighborhood and will shift the arterial street further away from residential uses and provide opportunity for transitional uses abutting up to the residential neighborhood.

2. John Wood, Executive Director of the Airport Authority, testified in support. The Airport Authority has worked closely with the staff throughout this process, and supports the subarea plan as presented today.

3. Robert Peterson, Executive Director of Nebraska Housing Resource, testified in support. Nebraska Housing Resource is a nonprofit land development corporation that has been in existence for five years. Of particular interest to Nebraska Housing Resource is the Huskerville Tract. It is proposed that the tract be restored to residential home ownership. Nebraska Housing Resource is in support of the plan generally and looks forward to working with staff to work out the various and sundry problems. The focus is to get as much usable space as possible out of that tract and move it along as fast as possible.

4. Mark Hunzeker appeared on behalf of **KLH Retirement Planning**, which owns a parcel that is generally at the intersection of I-80 and N.W. 48th Street, approximately 30 acres, which is presently zoned Highway Commercial. The land use plan paints virtually everything along the interstate as red industrial. He believes there will be substantial need for highway commercial type uses which would be appropriately located near the intersection of I-80 and N.W. 48th Street. He suggested that, at a minimum, the property presently zoned and designated Highway Commercial remain as such and possibly expand that designation somewhere up to near the intersection of Vine Street with N.W. 48th to enable a sufficient parcel to be assembled to have good internal circulation. It is a natural kind of complementary use to the industrial uses that are being proposed.

Opposition

1. Barbara Erickson, 3900 W. Holdrege Street, testified in opposition to the building of an arterial street directly west of her home. In August of 1980, she and her husband purchased 10.5 acres in 5.25 separate lots and have lived at 3900 W. Holdrege for 25 years. They have planted over 400 pine trees and have kept the property modernized. Figure 2 states that a major element of the subarea plan includes a new minor arterial street called N.W. 40th/38th Street to provide better access. The location and design of this street is a major concern for her home and property. The front door of her home faces west, and it is only 81 feet from the center of the proposed arterial street, or even 5 feet less. Another concern is water supply to her home because the well is on the west side of the home. Figure 2 shows N.W. 40th taking a bend at her property and will wipe out all of the trees they have planted. Page 21 of the subarea plan states that the shift at N.W. 38th is to provide greater separation from the residential subdivision on the N.W. 40th Street section line and she believes this statement should include her residence.

Ms. Erickson requested that the road turn before N.W. 40th and go east of their property and then connect with N.W. 38th. Only ½ mile of N.W. 40th exists at this time, and then it turns back to N.W. 48th. Hers is the only house located in this whole territory and they have chosen to put a minor arterial street right next to her front door. There needs to be another alternative.

2. Larry Bowman, whose family owns property in this area zoned industrial, testified in opposition because it appears that this plan is for more residential. He believes it will be very hard to get residential in the area because of the interstate.

3. Mark Burchell, 5318 W. Cleveland Avenue, testified in opposition to the proposed 4+1 lane on West Adams Street. He was hoping for a 2+1 lane facility. Commissioner Marvin believes West Adams Street is shown in the plan as 2+1.

Staff questions

Ross clarified that the current plan today shows West Adams Street as a 4+1 facility over the life of the 25-year planning document. As a result of this subarea plan, the modeling suggested that a 4+1 was not necessary, so there is an amendment in the staff report that indicates a change from 4+1 to 2+1, but the City will still be purchasing the right-of-way of 120' to ultimately do a 4+1; however, over the 25 years he believes that West Adams Street will only be required to be a 2+1 facility.

Ross also clarified that the property to which Mark Hunzeker testified is shown as industrial on the land use plan. Ross believes that the staff would certainly support a mix of uses, both commercial and industrial, for the areas immediately adjacent to the interchange. He believes this has been addressed and the staff would prefer to keep the land use plan showing industrial because the commercial uses can still be developed.

With regard to the Erickson property, Ross stated that the roads being shown are “planned” but not “designed”. The plan shows generally where the roadways should be developed looking out over 25 years. The staff has met with Ms. Erickson since November 16th. Her concerns were taken to a group of city staff and it was determined that this plan, at least for this time, would continue to show the N.W. 40th and 38th along the corridor that is proposed today to maintain as much right-of-way that we already have south of W. Holdrege. There are some things that need to be tied in and the staff wants to preserve, maintain and use as much right-of-way as possible. There are certainly some challenges in making this roadway happen. The staff believes that there is enough strong engineering to keep that street on a section line roadway as much as possible.

Bills-Strand noted improvement of 48 million dollars. Will this affect the CIP? Ross indicated that the staff did do some cost evaluations, some general and approximate estimates. The new roadways identified in the staff report add approximately 48 million dollars to the roads that are already in the 25 year transportation plan. When the subarea plan is adopted into the Comprehensive Plan, the staff will start looking at when the plan will be implemented.

Ross further pointed out that N.W. 48th is identified in the plan today as well as W. Adams and N.W. 56th. W. Adams and N.W. 56th were part of the bond issue and have probably moved down in priority. N.W. 48th needs to be completed over the next 25 years.

Carlson noted that this plan has potential for substantial public investment. How is the public getting cost benefit for their public investment of their dollars? How are we planning these industrial parks? Darl Naumann, Economic Development Director, stated that the Angelou Study gave Lincoln a failing grade of F for industrial parks that are available in this area. This plan gives us about 600 acres of industrial parks, giving us the opportunity to

locate maybe four or five large users or even smaller users in this area. We could have the infrastructure in place if we do other things to find the financing for this area. We can acquire this land for industrial parks, but it has to be a public/private partnership to acquire the land.

Ross reiterated that there are several amendments, including the amendments reflecting the Arnold Heights Neighborhood Association ideas, and the MPO-Technical Committee amendment in the location of a collector street.

ACTION BY THE PLANNING COMMISSION:

December 8, 2004

Larson moved approval, with the amendments proposed today, seconded by Carlson.

Carlson stated that he will vote in favor. He likes the subarea plans. Lincoln is a great city. When we do subarea plans like this, it is important to show the commitment to address the issues that we may have. He believes that it is equally important to set the bar high--that we make sure we are not just getting new jobs but good jobs, not just building schools but good schools. It is important that these plans move forward, but it is equally important that we push hard to make sure that the quality and standard is high.

Bills-Strand agreed, but she believes it is very important to push hard to find some forms of funding.

Motion for approval, with amendments, carried 8-0: Carlson, Carroll, Krieser, Sunderman, Marvin, Taylor, Larson and Bills-Strand voting 'yes'; Pearson absent. This is a recommendation to the City Council and the County Board.

CHANGE OF ZONE NO. 3413
FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT N. 24TH STREET AND SUPERIOR STREET.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: December 8, 2004

Members present: Carlson, Carroll, Krieser, Sunderman, Marvin, Taylor, Larson and Bills-Strand; Pearson absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

The clerk announced that Carol Brown has submitted a written request for an additional six-month deferral.

Marvin moved to defer, with continued public hearing and action scheduled for June 8, 2005, seconded by Carroll and carried 8-0: Carlson, Carroll, Krieser, Sunderman, Marvin, Taylor, Larson and Bills-Strand voting 'yes'; Pearson absent.

The applicant was not present.

Opposition

1. Marty Fortney of Regal Building Systems, 1901 S.W. 5th Street, is opposed to keeping this change of zone on pending as he sees no benefit in it. He has had 14 communications with the applicants over a six month period, and five meetings along with staff and City Council. He questions the value of keeping this on the agenda.

There are 6.1 acres in question, currently zoned R-4, and he has a special permit for 188 senior housing units, which he believes he should be able to finish up in a couple of years. The price started at \$104,950 a couple years ago and has escalated. The reason for this downzone is to take the 188 units of senior housing to 54 units of townhomes/condos, with a price range between \$99,000 and \$125,000. That plan was denied by this body. In the series of meetings in the last 12 months, they have come up with an office layout that the neighborhoods would be excited about with 45,000 sq. ft. of office space. The biggest complaint he continues to receive is the need for the street light at 24th and Superior. He compromised with the neighbors and looked at doing half of the condo and half of the townhouses. The biggest problem was that it was not aid-restricted and the neighbors did not like affordable housing. He is not opposed to doing aid-restricted housing. He did suggest to the neighbors that he would simply wait and table anything until market conditions improve. He does not believe the market will carry the senior housing. He believes this downzone should be voted on and not remain on pending. The downzoning is not a mechanism that fosters good neighborhood planning. Downzoning should be for a piece of property that severely negative affects adjacent homeowners. He believes that the developer and neighborhood have come together and agreed on some things, but it is the general economic condition that makes it impossible at this time. If he was gong to make an additional change in the future, he would have to go back through the due process, and that is why he questions the value of the downzone.

Carlson suggested that if Fortney is close to reaching agreement on a plan and he is going to need a zone change, maybe he should bring his zone change forward in the interim. Fortney does not want to put himself in a position without having a true crystal ball dictating what the conditions are going to be. That's why he is waiting. He does not want to be in an offensive position with the neighborhoods two or three years from now. In terms of a general use, he believes O-3 would be an excellent use; however, the neighborhood group expressed that they would want certain restrictions with an O-3 zoning that would allow multi-family.

Fortney stated that he continues to work with Carol Brown and the neighbors. When he has a plan that he thinks is going to work, he will certainly bring it forward.

Bills-Strand moved to reconsider the six-month deferral, seconded by Larson.

Bills-Strand noted that the owner is not the applicant on this change of zone request. She believes the owner and neighborhood are working well together and maybe this should not be deferred for six months.

Carlson believes that possibly a four-week deferral would be more appropriate to allow the applicant and the neighbors to come forward and speak.

Motion to reconsider the six-month deferral failed 3-5: Krieser, Larson and Bills-Strand voting 'yes'; Carlson, Carroll, Sunderman, Marvin and Taylor voting 'no'; Pearson absent.

This application will be scheduled for continued public hearing and action on June 8, 2005.

There being no further business, the meeting was adjourned at 5:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 5, 2005.